

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES,

RECOMMENDING

*The extension to French vessels coming from Guiana and Senegal of the benefits granted by the act of 9th of May, 1828, to French vessels from the islands of Gaudaloupe and Martinique ; and also the repayment of the duties levied on the French ship Alexandre.*

JANUARY 3, 1840.

Referred to the Committee on Commerce and ordered to be printed.

*To the Senate of the United States :*

I communicate to Congress a report from the Secretary of State, in relation to applications on the part of France for the extension to vessels coming from the colonies of French Guiana and Senegal, of the benefits granted by the act of the 9th May, 1828, to vessels of the same nation coming from the islands of Guadalupe and Martinique, and for the repayment of duties levied in the district of Newport, upon the French ship "Alexandre" and part of her cargo. The circumstances under which these duties were demanded, being, as stated by the Secretary of the Treasury, of a character to entitle the parties to relief, I recommend the adoption of the necessary legislative provisions to authorize their repayment. I likewise invite your attention to the evidence contained in the accompanying documents as to the treatment of our vessels in the port of Cayenne, which will doubtless be found by Congress such as to authorize the application to French vessels coming from that colony of the liberal principles of reciprocity which have hitherto governed the action of the Legislature in analogous cases.

M. VAN BUREN.

WASHINGTON, December 31, 1839.

DEPARTMENT OF STATE,  
Washington, December 31, 1839.

I have the honor to communicate copies of a correspondence with the representative of the French Government, on the subject-application on the part of France, for the extension to French vessels coming from the colonies of Guiana and Senegal, of the benefits granted by the act of the 9th of May, 1828, to vessels of the same nation, from the islands of

Guadaloupe and Martinique; and for the repayment of certain duties of impost and tonnage levied upon the French ship "Alexandre," and part of her cargo, by the collector of the district of Newport, Rhode Island.

As the documents relating to the first applications afford evidence that the vessels of the United States are admitted in the port of Cayenne, in French Guiana, upon as favorable terms as in those of the island of Martinique and Guadaloupe, no just reason is perceived for refusing the extension to French vessels coming from the first named colony, of the provisions of the act of the 9th May, 1828.

The accompanying communication from the Secretary of the Treasury shows the ground of the second application, and his opinion that the relief asked for should be granted, but cannot be given without an act of Congress, as the duties levied have gone into the Treasury of the United States.

JOHN FORSYTH.

To the PRESIDENT.

# LIST OF PAPERS ACCOMPANYING THIS REPORT.

- Mr. Pontois to Mr. Forsyth, (translation,) April 12, 1839.
- Ordinance, (translation,) December 5, 1831.
- Ordinance, (translation,) December 23, 1833.
- Mr. Forsyth to Mr. Pageot, April 24, 1839.
- Mr. Pageot to Mr. Forsyth, (translation,) December 9, 1839.
- Mr. Woodbury to Mr. Forsyth, December 18, 1839.
- First Comptroller to Mr. Woodbury, December 14, 1839.
- First Comptroller to Mr. Woodbury, June 11, 1838.
- Collector of Newport to First Comptroller, May 21, 1838.
- Collector of Newport to First Comptroller, May 28, 1838.
- First Comptroller to Collector of Newport, June 11, 1838.
- Collector of Newport to First Comptroller, June 14, 1838.
- French Vice-Consul at Newport to Collector, June 12, 1838.
- First Comptroller to Collector of Newport, June 18, 1838.

*Translation of a letter from the French Envoy—received April 14, 1839.*

LEGATION OF FRANCE IN THE UNITED STATES,  
New York, April 12, 1839.

In the communications which passed between us last year on the occasion of the arrival of the French merchant vessel *Charles* in the port of Norfolk, you did me the honor to inform me that the Federal Government would be disposed to extend, as a measure of reciprocity, to French vessels coming from Cayenne, the treatment secured to those from Gaudaloupe and Martinique, by the act of Congress of May 9, 1828, so soon as it should have been officially informed that the royal ordinance of February 5, 1826, according to this treatment of the flag of the United States in those two islands, was likewise applicable to the colony of Cayenne.

The annexed copy of the arrêtés of the governor of French Guiana, bearing dates the 5th of December, 1831, and the 25th December, 1833, with the accompanying copy of the tariffs and regulations in force in that colony, will be sufficient to remove all doubts upon that point. You will then see, sir, that the commerce of the United States is in possession of advantages in Guiana absolutely similar to those secured to it in its relations with the West Indies, by the ordinance of February 5, 1826, inasmuch as the duties levied upon goods imported from the foreign countries, and upon productions exported to the same, are fixed at equal rates, whatever may be the flag under which the importation or exportation may be made.

The flag of the United States is in fact specially favored in French Guiana, in consequence of the privilege allowed to that colony of receiving from foreign countries under any flag, the greater part of the articles, the introduction of which into the French West India islands is reserved entirely for French vessels; and also of exporting to foreign countries, the productions of the colony, which is not allowed either to Martinique or Guadalupe. Finally, that no tonnage duty is levied in Cayenne.

These facts and the proofs which I have been ordered to communicate to you officially, will no doubt induce your Government to admit the right of French merchant vessels, arriving in the United States from Cayenne, to enjoy, like those from the French West Indies, the benefit of the act of May 9, 1828; and I therefore request, sir, that you will adopt the measures necessary for having this assimilation legally established, as also for having the excess of duties paid by the consignees of the *Charles* refunded to them.

I am likewise charged by my Government to represent to you, sir, that the French vessels despatched from Senegal to the United States, are subjected on their arrival in the ports of the Union, to a duty of one dollar per ton—the duty of unprivileged vessels, while American vessels arriving at Gorée, the only port in Senegal open to foreign trade, are required to pay only one franc per ton, which duty is levied upon all vessels, whether French or others, coming from a foreign country. The flag of the United States is thus assimilated to the French flag, as regards navigation duties upon importations from foreign countries in the colony of Senegal, as it is in those of Martinique and Guadalupe, according to the royal ordinance

of February 5, 1826. If the considerations which I have just advanced in support of my application for the extension to French vessels coming from Cayenne, of the advantages allowed by the act of May 9, 1828, to those from our West India islands, be also applicable to vessels despatched from Senegal, there are grounds for the hope that the Federal Government will receive those from the latter colony in a manner equally favorable. It is true that the duties on foreign goods, warehoused at Gorée, are reduced by one half in favor of the French flag; but the king's Government would consent to suppress entirely this discriminating duty on importations in American vessels, in order to obtain in return the abolition of the excess of duty levied on the productions of Senegal, entering the United States under the French flag, and thus to apply fully the principle of reciprocity to the direct relations between the port of Gorée and those of the United States.

Accept, sir, the assurances of high consideration with which I have the honor to be, &c.

ED. PONTOIS.

Hon. JOHN FORSYTH,  
*Secretary of State.*

[TRANSLATION.]

DEPARTMENT OF MARINE AND COLONIES.

*Extract from a decree of the government of French Guiana, regulating the imposition and collection of public contributions of the colony, dated December 5, 1831.*

We, the Governor of French Guiana, &c.

ARTICLE 82. French and foreign vessels which, observing in all other matters the forms established for vessels on arriving, should not remain more than seventy-two hours in the colony, and should neither take in nor land any thing, shall be subject to no duties, except pilotage, and that for the services of the custom-house guards, agreeably to the 80th article above.

ARTICLE 83. The export duties on goods and merchandise cleared for France, for the French colonies, or for other countries, shall be paid according to the table of estimates which is drawn up every three months, conformably with the decree of September 5, 1829.

ARTICLE 84. Conformably with the royal ordinance of September 25, 1822, whenever productions of the French soil and French manufactures are exported to foreign countries, the duties which may have been paid on their entrance into the colony shall be restored to the exporter. On foreign goods withdrawn from consumption for exportations to foreign countries, half the duties paid shall be restored.

ARTICLE 85. Although a merchandise be exempt from duty, declaration shall be made at the custom-house of its entrance or exportation as exactly as if it were subject to duty.

ARTICLE 86. The following articles of merchandise are hereafter prohibited from entrance for consumption, but admitted for warehousing, agreeably to the colonial ordinance of January 28, 1821, viz :



Spirituous liquors of all sorts ; brandy, whether made from grapes or grain ; rum, ratafia, and arrack, &c., (except the brandy and liqueurs of France, liqueurs of Martinique, Kirschwasser ; gin, in cases or jugs,) cocoa, coffee, cinnamon, cotton, wool, unrefined sugar and clayed sugar, ginger, nutmegs, pepper, indigo and prepared rocon, when they come from French colonies in French ships. And these articles of merchandise, if introduced from foreign countries, or by foreign vessels, viz : gunpowder, refined sugar, spun cotton and woollen cotton, silk, linen or hemp cloths, and clothes made up, comprehending hats and shoes.

Done at the hotel of the government at Cayenne, December 5, 1831.

JUBELIN.

By the Governor.

PAUL, *Colonial Counsellor,*  
and *Director of the Interior.*

A true copy.

ST. HILAIRE, *Counsellor of State,*  
and *Director of the Colonies.*

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[TRANSLATION.]

DEPARTMENT OF MARINE AND COLONIES,  
*French Guiana.*

*Decree.*

To the effect that, until a law has been passed establishing a tariff of custom house duties for French Guiana, those duties shall continue to be collected as ordered in the decree of December 18, 1832, fixing the direct and indirect taxes for 1833:

CAYENNE, *December 23, 1833.*

We, the Governor of French Guiana, in virtue of the law of April 24, 1833, on the legislative system of the colonies, article 2, providing that the legislative power of the kingdom should make \* \* \* laws on commerce, custom-house regulations, laws for the suppression of the slave trade, and those of which the object is to regulate the relations between the mother-country and the colonies.

And, also, in virtue of ministerial instructions, concerning the execution of the said law, particularly the circular of July 23, 1838, No. 136, stating, "that the establishment of import and export duties on the cargoes of national and foreign vessels is within the province of the legislative power of the kingdom ; and, consequently, the present system of duties of that nature can, in future, be modified only by a law."

Considering also, that, under the foregoing provisions, the custom-house duties in French Guiana must continue to be levied according to the existing system until a law shall have been passed for their establishment ; but, that it is necessary that this be made known by a formal disposition throughout the colony, inasmuch as hitherto custom-house duties have, like all other public contributions, been regulated by successive acts from year to year, which cease to have effect on the 1st of January, 1834.

In virtue, also, of the decree of December 18, 1832, fixing the rate of direct and indirect contributions for 1833.

Upon the report of the Chief Commissary of Marine (*Commissaire de Marine Ordonnateur* ;)

And, after consulting with the privy council, we have decreed, and do decree as follows:

Art. 1. From and after the 1st of January, 1834, until a law has fixed the rate of custom-house duties for French Guiana, those duties shall continue to be levied according to the rate established by the decree of December 18, 1832, respecting the direct and indirect taxes of the colony for the year 1833, conformably with the following tariff:

#### I. IMPORTATION.

*French Commerce.*—French goods coming directly from French ports, in French vessels, shall pay two francs on every hundred francs of their value—that is, two per cent.

French goods and articles of the growth of the other colonies, imported directly from the said places, in French ships or French coasting vessels, when their national character (*nationalité*) is properly proved by regular certificates, shall pay the same duty of two francs on every hundred francs of their value—that is to say, two per cent.

*Foreign Commerce.*—Goods obtained in a foreign country, and imported in French or foreign vessels, shall pay as follows:

Those in the table annexed to the present decree, five francs on every hundred francs of their value—that is to say, five per cent.

Those not included in that table, and the introduction of which is not prohibited, ten francs on each hundred francs of their value—that is to say, ten per cent.

The following goods are free from all import duties:

1. Under whatsoever flag, and from whatsoever country they may come, living animals, precious metals in bars or coined, implements of agriculture, introduced as models or for trial, mechanical machines for supplying the place of men or animals in the various branches of industry in the colony, quicklime, and objects of natural history.

2. And also, when brought in French vessels directly from France, flour and farinaceous articles of food, vegetables fresh and dry, salt beef and pork, cod-fish and salt fish, (in barrels or half barrels at least,) herrings, sugar-kettles, ploughing and other implements for working the earth, particularly shovels, pickaxes, hatchets, pruning-knives, ploughs, *sarcloirs*, harrows.

#### II. EXPORTATION.

*French commerce.*—Goods and productions of the soil of French Guiana carried out of the colony to a French port, in French vessels, or to other French colonies, shall pay fifty centimes on each hundred francs of their value, according to *mercureiale*—that is to say,  $\frac{1}{2}$  per cent.

*Foreign commerce.*—Goods and productions of the soil of the colony exported to a foreign country, in French or in foreign vessels, shall pay two francs on each hundred francs of their value—that is, 2 per cent.

Prohibited foreign goods seized and sold on condition of their exportation to a foreign country, in whatsoever vessel they may be exported, shall pay the same duty of two francs on each hundred of their value—that is to say, 2 per cent.

Prohibited foreign goods, warehoused, shall pay a duty of twenty-five centimes on each hundred francs of their value—that is,  $\frac{1}{4}$  per cent.

The following articles, whether exported to France or to a foreign country, shall be exempt from all duties: Woods, rocon, molasses, rum, pepper, cinnamon, pimento, ginger, vanilla, indigo, nutmegs, curcuma, simarouba, objects of natural history, turtles, and fresh fruits.

### III. NAVIGATION DUTIES.

*Francisation.*—Vessels of and under a hundred tons, sixty francs—(60 francs.)

Above one hundred tons, seventy-five francs—(75 francs.)

Of from two to three hundred tons, ninety francs—(90 francs.)

Above three hundred tons, fifteen francs for each hundred tons.

*On departure.*—For a long voyage, (voyage de long cours,) twenty francs—(20 francs.)

Coasting voyages, either long or short, fifteen francs—(15 francs.)

Decked coasters belonging to the colony, gratis.

Duty of inscription on charge of ownership, six francs—(6 francs.)

ARTICLE 2. No charge is made in the dispositions of the 1st chapter of the 11th title of the regulating decree of December 5, 1831, on the determination and collection of the public contributions of the colony, nor in any other acts respecting custom-house affairs now in force.

3. The Chief Commissary of Marine is charged with the execution of this decree, which is to be published and registered wherever it may be necessary, and inserted in the bulletin of administrative acts of the colony.

JUBELIN.

By the Governor.

PARISET,

*Commissaire Ordonnateur, de Marine.*

CAYENNE, December 28, 1833.

A true copy.

ST. HILAIRE,

*Counsellor of State and Director of the Colonies.*

DEPARTMENT OF STATE,

Washington, April 24, 1839.

SIR: I have the honor to acknowledge the receipt of Mr. Pontois's note of the 12th instant, accompanied by documents to show that American vessels are admitted to trade at the colony of Cayenne, upon a footing which, on the principle of reciprocity, should secure to French vessels entering the ports of the United States, from the colony referred to, the privileges allowed by the act of Congress of the 9th of May, 1828, to French vessels coming from the colonies of Martinique and Gaudaloupe, and asking the adoption of the necessary measures to establish an equality of treatment in American ports to French vessels coming from all those colonies,

and the return to the consignees of the brig "Charles," of the differential duties levied on that vessel by the collector of the port of Norfolk.

The President, to whom Mr. Pontois's note has been communicated, is now as disposed as he was at the time of our former correspondence on this subject, to carry to its fullest extent the principle of reciprocity, which forms one of the bases of the commercial policy of the United States. But as its extension beyond the limits prescribed by the convention of 1822, and the act of Congress to which Mr. Pontois refers, is not within the scope of the authority vested in him by existing legislation, he has instructed me to state to you that he will take an early opportunity, after the meeting of the next Congress, to communicate to that body the note referred to, and the documents accompanying it, and to recommend such additional legal provisions as may enable him to fulfil the wishes of your Government.

With regard to the repayment of the differential duties levied upon the brig "Charles," as it appears from the decision of the Treasury, already communicated to your legation, that the charge was made under the authority of law, the President would not feel himself justified in applying to Congress for an appropriation of the funds necessary to effect it.

In another part of his note Mr. Pontois asks, in the name of his Government, upon the principle of reciprocity, the extension to French vessels coming from Senegal, of the advantages secured by the act of 1828 to those coming from Martinique and Gaudaloupe, upon the ground that American vessels arriving at the port of Gorée, in that colony, are assimilated to French vessels coming from foreign countries, in the payment of a duty of one franc per ton; and, he states, in order to secure that advantage, your Government would be disposed to abolish the discriminating duty on goods imported in American vessels and placed in the entrepôt of Gorée.

To this proposition objections would present themselves, even after the repeal of the lastmentioned duty. In the first place, the admission of American vessels would be restricted to the port of Gorée, in Senegal, while French ships would be admitted into the United States coming from that, and all other places in the colony; and, in the next place, on reference to the printed *Résumé* accompanying Mr. Pontois's note, it appears, that, by Nos. 8 and 9 of the "Dépositions Générales," the importation of articles the produce of the United States, and the importation of certain goods in American vessels, would be prohibited; and by the table of duties, that goods imported under the United States flag, and entered for consumption in the colony, would be subjected to a duty quadruple that payable on similar articles imported in French vessels. If this understanding of the tariff of the colony be correct, I do not perceive the ground upon which Mr. Pontois invokes the principle of reciprocity in support of the application of your Government: and the President would not feel himself authorized to recommend the action of Congress in its behalf. But I am instructed by the President to state to you, that whenever your Government shall deem it proper to place the trade between the United States and the ports of Senegal, upon the footing of an entire reciprocity, he will take pleasure in recommending to Congress the adoption of corresponding measures on the part of the United States.

I avail myself of this occasion to tender you the assurance of my high consideration,

JOHN FORSYTH.

Mr. ALPHONSE PAGEOT,  
*Ch. d'Aff. of France.*

## [TRANSLATION.]

*A Letter from A. Pageot, Chargé d'Affaires, of France.*WASHINGTON, *December 9, 1839.*

SIR: The owners of the French merchant ship *Alexandre*, taken and carried into Newport, in the year 1837, by a person named Benoit Marsaud, have solicited the interference of the King's Government, in order to obtain the restitution of a sum of 1020 dollars and 65 cents, paid at the custom-house of Newport by the consular agent of France at that port, as duties of tonnage and entrance on the *Alexandre*, and (as import duties) on some diamonds which had been taken from the ship by an accomplice of Marsaud. They represent that the entrance of their ship into a port of the United States was the consequence of an atrocious crime, the actors in which have been prosecuted and punished, and not of a commercial operation, and that the same cause produced the declaration, at the custom-house, of the diamonds which formed part of the cargo, the whole having been finally returned to the owners together with the vessel itself, without any sale or even examination having been made of any portion.

These circumstances, of the truth of which there can be no doubt, could not fail to secure for the owners of the *Alexandre* the support which they solicited. They will also, I doubt not, suffice to convince the Federal Government of the equity of the declarations of those owners. The American Treasury would not certainly wish to profit by the misfortunes of the owners of the *Alexandre*. The spirit of justice which so eminently characterizes the proceedings of the Federal Government, appears, on the contrary, not less than the laws of morality and humanity, to guaranty the restitution which is asked.

I am, sir, in consequence, charged to urge this claim upon the Government of the United States; and in case this measure should be beyond the powers of the Executive, to request you to ask from Congress the authority to carry into effect the restitution in question. I have the honor, with that view, to address to you the accompanying note of the duties paid to the collector of Newport, by the consular agent of France.

I embrace this occasion, sir, to repeat to you the assurance of the high consideration with which I have the honor to be,

Your most humble and obedient servant,

A. PAGEOT.

Hon. JOHN FORSYTH,  
*Secretary of State.*

Note of custom-house expenses paid to Mr. William Litchfield, collector of the port of Newport, on the 23d of June, 1838.

Entrance duties	-	-	-	-	-	\$8 20
Tonnage duties	-	-	-	-	-	295 45
Duty on diamonds	-	-	-	-	-	660 00
To inspectors	-	-	-	-	-	57 00

\$1,020 65



TREASURY DEPARTMENT,  
December 18, 1839.

SIR : I have the honor to enclose a report from the First Comptroller of the Treasury, dated the 14th instant, with accompanying documents in regard to the case of the ship "Alexandre," of Bordeaux, referred to in the note from the French Chargé d'Affaires, transmitted in yours of the 11th instant.

It will be observed on inspection of the accompanying papers, that the decision of the Comptroller, requiring the payment of discriminating duties of import and tonnage, the restitution of which is claimed, was founded on the ground of a want of satisfactory evidence at the time, to show the true national character of the vessel, and it consequently became necessary to treat her as coming under the regulation applicable to those vessels belonging to nations with which no commercial regulations have been established by treaty. But, it being now understood, that the character of the vessel in question, and the circumstances attending her arrival in this country, have since been fully established by the French tribunals, it would seem to present a case proper for the extension of the relief asked for, which this department is, however, precluded from affording, owing to the money having been accounted for and paid into the Treasury.

I have the honor to be, very respectfully, your obedient servant,

LEVI WOODBURY,  
*Secretary of the Treasury.*

Hon. JOHN FORSYTH,  
*Secretary of State.*

TREASURY DEPARTMENT,  
First Comptroller's Office, December 14, 1839.

SIR : I have the honor to acknowledge your reference of the accompanying letter from the Secretary of State, with the translation of a note from the French Chargé d'Affaires, claiming the restitution of certain custom-house duties paid in the year 1838, to the collector at Newport, in the case of the ship Alexandre, of Bordeaux ; and in compliance with your request, beg leave to submit the enclosed copy of a report made to you on the subject under date of the 11th June, of the same year, together with the instructions consequent thereon as furnishing the information called for.

I have the honor to be, very respectfully, your obedient servant,

J. N. BARKER, *Comptroller.*

Hon. LEVI WOODBURY,  
*Secretary of the Treasury.*

TREASURY DEPARTMENT,  
First Comptroller's Office, June 11, 1838.

SIR : In compliance with your reference of the accompanying letter from the collector for the district of Newport, Rhode Island, for examination and report, I have the honor to state, that an incessant pressure of business has prevented an earlier attention to the facts and circumstances con-

nected with the case of the French ship *Alexandre*, to which he refers, as being the subject of recent correspondence on his part with this office.

From the first representation of the collector, it appears that the vessel belongs to Bordeaux, and took in a cargo, consisting of coffee and other free goods, at *Batavia*, of which place they are presumed to be the produce; touched at the Isle of France, and arrived on our coast without seeming to have had any *special* port of destination. The captain and six men were lost overboard during the voyage, according to the report of the person now in command of the vessel; which circumstance appears to have excited the suspicion of the vice-consul of France, residing at Newport, and he therefore requested the collector not to clear the vessel, until he could communicate with the consul general, residing at New York. In a subsequent communication, the collector states that he could perceive nothing to indicate the place to which the vessel was bound when she left Batavia and Semarang: that the papers which would show it may have been left with the French consul at the Isle of France, at the time she was cleared from the latter port: that the journal states that she sailed from Semarang, with her cargo, on the 15th of November last; and on the 2d of December following, the accident happened, which deprived her of captain, mate, and part of the crew: that she afterward reached Port Louis in distress, where she discharged, repaired, and cleared, as is shown by the certificate of the French consul at that port, dated the 9th of March, 1838. No official clearance from the custom house there, however, has been produced; but, arriving in distress, a document of that description was not necessary to enable her to continue and finish her original voyage: that the suspicion of the vice-consul in part grew out of the supposed erasure and substitution of some word or words in the original consular certificate of clearance at Port Louis—the word "*Bordeaux*" appearing to have been altered to "Boston et autre port." On close inspection, the collector thinks such an alteration has been made; and further adds, that the captain, officers, and crew were arrested at the instance of the vice-consul: that the captain, in a moment of panic, and forced, as he alleges, on shore against his will, took from the vessel with him a bag, containing six hundred sovereigns, and a package, containing diamonds valued at \$4,800: that he was informed of the circumstance; but, the captain producing the money and jewels, and disavowing any intention to evade the law, he permitted them to be duly entered, merely passing the money through the custom house, and restoring it to the supposed owner, but retaining the diamonds, which he deposited in bank, to await further instructions. The cargo, with this exception, remains in the original state, under the inspection of an officer placed on board the vessel, and watched, at his direction, by the revenue cutter.

In view of this representation, three questions arise: 1st, Whether it may be considered as the case of a vessel forced in by necessity or distress; or, if not so, 2dly, Whether it may be considered as a regular importation, and treated accordingly; or, 3dly, Whether it is to be considered as neither, but as coming within the purview of the 1st section of the navigation act of the 1st of March, 1817, which provides that no goods, wares, or merchandise shall be imported into the United States, except in vessels of the United States, or in such foreign *vessels as truly and wholly belong* to the citizens or subjects of the country of which the goods are the growth, production, or manufacture, or from which such goods, wares, or

merchandise can only be, or most usually are, first shipped for transportation.

If it be determined to be a case of distress, the 6th section of the act of 1799 makes suitable provisions to meet the exigency. If it be determined to be a bona fide importation, the same act is equally explicit in its provisions. See 30th and 49th sections. In that case, the coffee and money being free, a duty of  $12\frac{1}{2}$  per cent. ad valorem would be exacted on the diamonds. But, if it be determined to be a case in contravention of the navigation act referred to, the 2d section provides the remedy.

After a very careful examination of the facts and circumstances stated by the collector, I may be permitted to observe, that from the doubt and mystery in which they are involved, I cannot discover that a clear and distinct breach of law has been committed; yet, the case ought not to be considered in the light of a *regular* importation, and I have, therefore, instructed the collector to admit the vessel and cargo to entry on the payment of discriminating duties of tonnage and impost; that is to say, one dollar per ton, including light money and the additional ten per cent. on the dutiable value of the cargo, and to place the vessel and cargo, together with the officers and crew, entirely under the direction and control of the vice-consul of France residing at Newport, to be treated in such way as he may deem to be most proper and just. This course, in my view of all the facts and circumstances in the case, is justified by the comity observed among nations and existing treaty stipulations.

I have the honor, also, to enclose a copy of the instructions to the collector at Newport, which I trust will meet your approbation.

I have the honor to be, very respectfully, your obedient servant,

JAMES M. BURKE,  
*Acting Comptroller.*

HON. LEVI WOODBURY,  
*Secretary of the Treasury.*

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DISTRICT AND PORT OF NEWPORT,  
*Collector's Office, May 21, 1838.*

SIR: The French ship *Alexandre*, of Bordeaux, Marsaud, master, arrived here yesterday under the following circumstances: She took in her cargo, consisting of coffee and other free goods, at *Batavia*, of which country they are presumed to be the produce,—touched at the Isle of France, and arrived on our coast without seeming to have had any *special* port of destination. The captain and six men were lost overboard during the voyage, according to the report of the officer now in command, which circumstance inducing the vice-consul of France that all was not right, I have been officially requested by him not to clear the vessel for any other port until he can communicate with his consul-general at New York. The question arises whether this cargo, under the circumstances, is entitled to an entry. On that head, I wish for instructions, and beg leave to refer to a circular from your office, dated November 15, 1830, from which it would appear that it is not. By the convention with France of 1822, it would seem that a tonnage duty of 94 cents is the maximum that can be levied on French vessels, and that duty will be required unless otherwise instructed. I am not clear whether this case comes under the first section of the navigation act of

1817, and very respectfully request your special attention to it, together with instructions as to the course to be pursued with the vessel and cargo.

I had the honor of addressing you on the 27th ultimo, on the subject of the Messrs. Shaws' claim,—the receipt not having been acknowledged, I have thought it possible that the letter may have miscarried.

I am, very respectfully, your obedient servant,

WM. LITTLEFIELD, *Collector.*

J. N. BARKER, Esq.,

*Comptroller of the Treasury.*

#### DISTRICT AND PORT OF NEWPORT.

*Collector's office, May 28, 1838.*

SIR: I have the honor to report the following circumstances in relation to the French ship *Alexandre*, which have come to my knowledge since writing you on the 21st:

In the first place, there is nothing to indicate the place to which the vessel was bound when she left Batavia and Semarang. The papers which would show this fact may have been left with the French consul at the Isle of France, at the time she was cleared from the latter port. The journal states that she sailed from Semarang, with her cargo, on the 15th November, 1837, and on the 2d December following, the accident is said to have happened which deprived her of captain, mate, and part of the crew. She subsequently arrived at Port Louis, Isle of France, in distress, on the 15th December, when she discharged, and repaired, and cleared, as appears from the *French consul's certificate*, at that port, on the 9th March, 1838. No official clearance, however, from the custom house has been produced; but, as she arrived there in distress, it is possible that no document of that kind was necessary to enable her to continue and finish her original voyage. The principal feature which seems to have aroused the suspicion of the French vice-consul at this port is, that the consular certificate of clearance from Port Louis appears to have been altered by an erasure and substitution of some word or words in place of the original. On close inspection, I should say that such was the case. He thinks that the word "*Bordeaux*" was altered to "*Boston et autre port*."

Shortly after writing to you, the captain, officers and crew, were arrested at the instance of Mons. Gouraud, the vice-consul. The captain, as he states, in a moment of panic, and *forced on shore against his will*, took with him a bag containing six hundred sovereigns, and a package containing diamonds valued at \$4,800. The next day I was informed of the circumstance; and the captain producing the money and jewels, and denying that he had any intention to evade the revenue laws, I allowed them, under the circumstances, to be entered, merely passing the money through the customhouse and restoring it to its supposed owner, but retaining the diamonds until instructed by you what disposition to make of them. They are now deposited in bank. With this exception, the cargo remains as it was, under the inspection of an officer on board, and watched, at my direction, by the revenue cutter.

I am, very respectfully, your obedient servant,

WM. LITTLEFIELD, *Collector.*

J. N. BARKER, Esq., *Comptroller, &c.*



TREASURY DEPARTMENT,  
*First Comptroller's Office, June 11, 1838.*

SIR: Your communications in regard to the case of the French ship *Alexandre* have been received, and in reply I have to say, that in the circumstances recited by you, I do not perceive sufficient ground to justify the arrest and detention of the vessel and cargo.

You will, therefore, admit both to report and entry on the payment of discriminating duties of tonnage and impost—that is to say, one dollar per ton, inclusive of light money, and the additional ten per cent. on the dutiable value of the cargo. The coffee and money are exempt from duty; but the diamonds are liable to an ad valorem duty of  $12\frac{1}{2}$  per cent.

On due report and entry being made of the vessel and cargo, you will place both, together with the officers and crew, at the control and disposition of the vice-consul of France. I regret that a press of business has prevented me from giving an earlier attention to your communications.

I am, very respectfully, your obedient servant,

JAMES M. BURKE,  
*Acting Comptroller.*

WILLIAM LITTLEFIELD, Esq.,  
*Collector, Newport, Rhode Island.*

DISTRICT AND PORT OF NEWPORT,  
*Collector's Office, June 14, 1838.*

SIR: I had the honor of addressing you on the 8th instant on the subject of the French ship *Alexandre*. I now enclose a letter from the French vice-consul demanding the two small paper boxes of unwrought diamonds which were entered by Marsaud, the former captain of the ship, under circumstances detailed to the Comptroller of the Treasury, and referred to in my letter of the above date. The ship is now nearly ready to sail, having a new captain and crew, put on board by Commodore Casy and the vice-consul of France. A clearance will soon be required from this office, and having communicated to the department all the circumstances of this intricate and delicate affair, I respectfully and earnestly request instructions. It would be very awkward to refuse a clearance, and might be considered an act of discourtesy towards France, whose authorized agents, I am informed, have made representations on the subject to the Government, through the French Minister at Washington. Of course, I cannot deliver the diamonds, without instructions, to any one.

I have the honor to be, very respectfully,

WM. LITTLEFIELD, *Collector.*

Hon. LEVI WOODBURY,  
*Secretary of the Treasury.*

NEWPORT, *June 12, 1838.*

SIR: In the name of the owners of the French ship *Alexandre*, of Bordeaux, and as vice-consul of France for the State of Rhode Island and Providence Plantations, I demand of you that the boxes of diamonds, a



part of the cargo of said ship, now in your charge as collector of this port, shall be delivered to me as soon as the claims of the American Government on said vessel and her cargo shall have been paid or satisfactorily secured. And I beg leave to inform you that I am prepared to pay or secure any sum that the Government of the United States or its officers may demand or require on account of the said ship and cargo.

I have the honor to be, with great respect, your obedient servant,

T. B. G. FAUVEL GOURAUD DE LA MARTINIQUE,  
*Vice-Consul de France pour l'Etat de Rhode Island, et*  
*Agent Consulaire pour le même.*

WILLIAM LITTLEFIELD, Esq.,

*Collector of the port of Newport, and district of Rhode Island.*

TREASURY DEPARTMENT,  
*First Comptroller's Office, June 18, 1838.*

SIR: The Secretary of the Treasury has referred to me your letter of the 14th instant, on the subject of the case of the French ship *Alexandre*; and, in reply, I have to observe, that you will deliver the diamonds to the vice-consul of France on the duty thereon being paid, or secured to be paid, and grant a clearance to the ship.

It is presumed that by this time, you have received the letter from this office of the 11th instant.

I am, very respectfully, your obedient servant,

J. N. BARKER,  
*Comptroller.*

WILLIAM LITTLEFIELD, Esq.,  
*Collector of Newport, R. I.*

part of the cargo of said ship now in your charge as collector of the port shall be delivered to me as soon as the claims of the American Government on said vessel and her cargo shall have been paid or satisfactorily accounted for. And I beg leave to inform you that I am directed to pay or secure any sum that the Government of the United States or its officers may demand or require on account of the said ship and cargo.

I have the honor to be, with great respect, your obedient servant.  
T. R. G. FLETCHER, GOVERNOR OF THE ISLANDS.  
P. S. - I beg to inform you that the French ship "Alexandre" is now at the anchorage of the port of Newport and district of Rhode Island.

WILLIAM L. FLETCHER, Esq., in and before me,  
Collector of the port of Newport and district of Rhode Island,  
has shown to me a certain document, the contents of which are as follows, to-wit:

THOMAS L. FLETCHER, Esq., in and before me,  
First Comptroller's Office, June 12, 1835.  
Sir: The Secretary of the Treasury has referred to me your letter of the 11th instant on the subject of the case of the French ship "Alexandre"; and, in reply, I have to observe, that you will deliver the diamonds to the five consuls of France on the duty thereon being paid, or secured to be paid, and grant a clearance to the ship.  
It is presumed that by this time you have received the letter from this office of the 11th instant.

I am, very respectfully, your obedient servant.  
J. N. BARKER,  
Comptroller.

WILLIAM L. FLETCHER, Esq., in and before me,  
Collector of the port of Newport and district of Rhode Island,  
has shown to me a certain document, the contents of which are as follows, to-wit:  
The French ship "Alexandre" is now at the anchorage of the port of Newport and district of Rhode Island. The five consuls of France are directed to deliver the diamonds to the five consuls of France on the duty thereon being paid, or secured to be paid, and grant a clearance to the ship.  
It is presumed that by this time you have received the letter from this office of the 11th instant.

WILLIAM L. FLETCHER, Esq., in and before me,  
Collector of the port of Newport and district of Rhode Island,  
has shown to me a certain document, the contents of which are as follows, to-wit:  
The French ship "Alexandre" is now at the anchorage of the port of Newport and district of Rhode Island. The five consuls of France are directed to deliver the diamonds to the five consuls of France on the duty thereon being paid, or secured to be paid, and grant a clearance to the ship.

WILLIAM L. FLETCHER, Esq., in and before me,  
Collector of the port of Newport and district of Rhode Island,  
has shown to me a certain document, the contents of which are as follows, to-wit:  
The French ship "Alexandre" is now at the anchorage of the port of Newport and district of Rhode Island. The five consuls of France are directed to deliver the diamonds to the five consuls of France on the duty thereon being paid, or secured to be paid, and grant a clearance to the ship.